

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Susan Steinbeck,

Respondent.

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Case No. 11-51

License No. 161775

Order Regarding
Proposed Decision

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing. The hearing was held before Administrative Law Judge Margaret LaMarche on January 30, 2012. On February 14, 2012, Judge LaMarche issued a proposed decision. The proposed decision was served upon the Respondent and the Board.

The Board considered the proposed decision at its regular meeting on March 9, 2012. After examining the proposed decision, the Board voted to initiate review of the Proposed Decision to examine whether the proposed sanction was appropriate in light of the findings. No additional briefs were submitted by either party.

At its regular board meeting on May 4, 2012, the Board considered the proposed decision. The Board voted to modify the proposed decision with the following modifications; under the paragraph "Decision and Order" in line three, after years add, "and permanently revoke with no possibility of reinstatement of her K-12 coaching endorsement."

ORDER

THEREFORE, the Proposed Decision in this matter with the above modifications will stand as the Board's final ruling. Based upon the findings and conclusions set forth within the Proposed Decision dated February 14, 2012, the Iowa teaching certificate held by Respondent, Susan Steinbeck, is **SUSPENDED** for a minimum period of two (2) years. The Respondent's endorsement to act as a K-12 athletic coach is hereby **REVOKED**. The burden will be placed on Ms. Steinbeck to prove that the reason for the suspension no longer exists and that it is in the public interest for her license to be reinstated. See 282 IAC 11.34. Prior to reinstatement Ms. Steinbeck, at a minimum, shall be required to document her ongoing sobriety and provide an updated substance abuse evaluation.

Dated this 4th day of May, 2012.


George J. Maurer, Ed.D., Executive Director
On behalf of the Board

Copies to: Susan Steinbeck, Respondent
Julie Bussanmas, Attorney for State

IOWA BOARD OF EDUCATIONAL EXAMINERS

FEB 15 2012

IN THE MATTER OF)	DIA NO. 11BEE026
)	CASE NO. 11-51
SUSAN STEINBECK)	
)	
Respondent)	PROPOSED DECISION

On December 1, 2011, the Iowa Board of Educational Examiners (Board) filed a Notice of Hearing and Statement of Charges against Respondent Susan Steinbeck that alleged two counts:

Count I: Conviction of a crime, in violation of 282 IAC 25.3(1)(b)(2); and

Count II: Alcohol abuse by being at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol, in violation of 282 IAC 25.3(2)(b).

The hearing was held on January 30, 2012 at 9:15 a.m. in a third floor hearing room, Wallace State Office Building, Des Moines, Iowa. The state was represented by licensed law student extern Rachel Gillum, who was supervised by Assistant Attorney Generals Julie Bussanmas and Meghan Gavin. Respondent Susan Steinbeck was served with the Notice of Hearing and Statement of Charges by restricted certified mail, return receipt requested but did not appear for hearing. (State Exhibit 2)

THE RECORD

The record includes the November 18, 2011 Order extending the 180 day time period; the testimony of Jim McNellis, and State Exhibits 1-5 (See Exhibit Index for description).

FINDINGS OF FACT

1. Susan Steinbeck holds an Iowa teaching license (Folder Number 161775), with an endorsement as a K-12 Athletic Coach and endorsements to teach grades 7-8, K-8 Physical Education, 5-12 Physical Education, 5-12 Biological Science, and

5-12 General Science. Respondent's license is currently active and expires on August 31, 2014. (State Exhibit 3, pp. 10-12)

2. At all times relevant to this Proposed Decision, Susan Steinbeck was employed by the Fairfield Community School District as a middle school teacher (Applications/Keyboarding) and as the high school girls' golf coach. Ms. Steinbeck had been employed by the Fairfield Community School District since January 13, 1984. (State Exhibit 3; State Exhibit 4, p. 27)

3. On May 10, 2011, Susan Steinbeck was responsible for driving the Fairfield High School girls' golf team to their conference meet in Keokuk, Iowa. Ms. Steinbeck drove the school's vehicle, a Chevrolet Suburban, and had six student golfers, ages 16-18, as passengers in the vehicle. At about 8:00 a.m., a citizen driving behind the school vehicle on Highway 16 observed that Ms. Steinbeck was driving very erratically and was swerving both over the center line and onto the gravel shoulder. He signaled for Ms. Steinbeck to stop the vehicle, and she did. While they were stopped at the side of the road, an Iowa State Trooper arrived at the scene. The state trooper smelled alcohol on Ms. Steinbeck's breath and observed other signs of intoxication. After failing field sobriety tests, Ms. Steinbeck consented to a breath test, which registered at .212 blood alcohol concentration. This was more than twice the legal limit of .08. Ms. Steinbeck was arrested at the scene for Operating While Intoxicated (OWI). Arrangements were made for someone from the school to pick up the vehicle and the student athletes. (Testimony of Jim McNellis; State Exhibits 3, 4)

4. The Fairfield Community School District has a written Substance Free Workplace Policy (No. 403.6). The policy defines "workplace" to include school district vehicles and any school-sponsored, school-approved, or school related activity, including field trips and athletic events. Upon receiving the Iowa State Patrol's report concerning Susan Steinbeck's arrest, the Fairfield School District Superintendent immediately placed her on indefinite administrative leave pending further investigation and board action. Ms. Steinbeck eventually resigned from the Fairfield Community School District. (State Exhibit 4, pp. 22, 28, 33)

5. The Fairfield Community School District filed its Complaint with the Board on June 20, 2011. The Board's investigator interviewed witnesses and obtained relevant records. Susan Steinbeck was also notified of the Complaint and given an opportunity to respond. On July 8, 2011, the Board received a letter

from Ms. Steinbeck. She reported that she had not had a drink since her arrest. She also reported that she had completed a 21-day alcohol rehabilitation program in Booneville, Missouri where she learned a lot about herself and the disease of alcoholism. Ms. Steinbeck admitted that her crime was inexcusable and that she was fortunate there were no injuries to people or property. She asked the Board to consider the fact that it was her first offense and that she had perfect attendance at school. Ms. Steinbeck further stated that she would like to keep her Iowa teaching license so that she would have the option of substitute teaching or teaching adult education classes. (Testimony of Jim McNellis; State Exhibit 3, 4, p. 17)

6. Respondent was charged in Lee County District Court with Operating While Intoxicated (OWI), First Offense and five counts of Child Endangerment. On August 11, 2011, Susan Steinbeck entered a guilty plea to OWI, First Offense, which is a serious misdemeanor. Ms. Steinbeck was ordered to pay a \$1250 fine and sentenced to 48 hours in jail. Ms. Steinbeck was also required to verify her completion of a drinking drivers' course and a substance abuse treatment program.

Susan Steinbeck also pled guilty to one count of Child Endangerment, an aggravated misdemeanor. Ms. Steinbeck was ordered to pay a fine of \$625 and to serve 180 days in jail. However, she was given credit for the 21 days she spent in inpatient substance abuse treatment. The balance of the jail term was suspended. Ms. Steinbeck was placed on probation for two years. Completion of substance abuse treatment was made a special condition of her probation. (Testimony of Jim McNellis; State Exhibit 5)

CONCLUSIONS OF LAW

I. Failure To Appear

282 IAC 11.7(1) provides that a notice of hearing may be served by personal service, certified mail with return receipt requested, first-class mail, or publication, as provided in the Iowa Rules of Civil Procedure. Respondent Susan Steinbeck was properly served by restricted certified mail, return receipt requested on December 2, 2011. (State Exhibits 1, 2)

282 IAC 11.23(1) provides that if a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no

adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party. Ms. Steinbeck was properly served but did not appear for hearing.

II. Conviction of Crime

The legislature has authorized the Iowa Board of Educational Examiners to adopt rules providing for the denial or revocation of a license upon the board's finding, by a preponderance of the evidence, that a person has been convicted of a crime. If the crime is not considered a disqualifying offense under the statute, the Board must consider the following factors in determining whether to deny or revoke a license:

- The nature and seriousness of the crime in relation to the position sought;
- The time elapsed since the crime was committed;
- The degree of rehabilitation which has taken place since the crime was committed;
- The likelihood that the person will commit the same crime again;
- The number of criminal convictions;
- Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.¹

The preponderance of the evidence established that Susan Steinbeck violated 282 IAC 25.3(1)(b)(2) when she was convicted of the crimes of Operating While Intoxicated (OWI) and Child Endangerment. The crimes directly relate to Ms. Steinbeck's fitness as a teacher because she was driving a school vehicle while highly intoxicated and seriously endangered the lives of six students. The circumstances of the crime reflect incredibly poor judgment and apparent disregard for student safety. The crimes are relatively recent. Although Ms. Steinbeck has reportedly completed court ordered substance abuse treatment, she did not appear for hearing and has provided no verification of treatment. The Board was given no information concerning Ms. Steinbeck's current status or participation in aftercare. In addition, the nature and circumstances of Ms. Steinbeck's violations strongly indicates that she has a very serious alcohol problem. Even if Ms. Steinbeck is currently sober, relapse is common following substance abuse treatment. Although these are apparently her first criminal offenses, there were aggravating circumstances that created a heightened risk to

¹ Iowa Code section 272.2(14)(a)(2011).

public safety. For all of these reasons, the state's request for a minimum two year license suspension is reasonable and justified.

III. Alcohol Abuse

282 IAC 25.3(2)(b) provides that it is a violation of the standards of professional conduct and ethics for a licensee to be at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol. The preponderance of the evidence clearly established that Susan Steinbeck violated 282 IAC 25.3(2)(b) when she drove the high school golf team to a conference meet while she was highly intoxicated. Ms. Steinbeck's actions were unprofessional, unethical, and placed the student athletes at extremely high risk for serious injury or even death.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the Iowa teaching license (Folder No. 161775) issued to Susan Steinbeck shall be SUSPENDED for a minimum period of two (2) years, effective when this Proposed Decision becomes final. Prior to reinstatement of her license, the burden will be placed on Ms. Steinbeck to prove that the reason for the suspension no longer exists and that it is in the public interest for her license to be reinstated. See 282 IAC 11.34. At a minimum, Ms. Steinbeck shall be required to document her ongoing sobriety and provide an updated substance abuse evaluation prior to any reinstatement.

Dated this 14th day of February, 2012.



Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Susan Steinbeck, 801 South D Street, Fairfield, Iowa 52556 (RESTRICTED
CERTIFIED MAIL)

Rachel Gillum, Student Extern and Julie Bussanmas, Assistant Attorney General,
Iowa Department of Justice, Hoover Building, 2nd Floor (LOCAL)

George J. Maurer, Ed.D., Executive Director, Iowa Board of Educational
Examiners, Grimes State Office Building (LOCAL)

Motion To Vacate Default

In accordance with 282 IAC 11.23(3), this decision becomes final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties or an appeal of the decision on the merits is timely initiated within the time provided by rule 11.28(17A,272). A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact attached to the motion.

Appeal on the Merits

282 IAC 11.28 provides that a proposed decision may be appealed to the Iowa Board of Educational Examiners (Board) by a party to the decision who is adversely affected by serving a notice of appeal with the board within 30 days after issuance of the proposed decision. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief.

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of)	Case No. 11-51
)	License No. 161775
SUSAN LYNN STEINBECK,)	
)	NOTICE OF HEARING
Respondent.)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Monday, January 30, 2012, before Administrative Law Judge Margaret LaMarche, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code [IAC] Chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 IAC 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the request for telephonic testimony must be served on the Board and all parties. Any resistance to the request for telephone testimony must be

filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 IAC 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Julie J. Bussanmas
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319
Telephone (515) 281-5637.

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Dr. George J. Maurer, the Board's Executive Director at (515)281-5849 or to Assistant Attorney General Bussanmas at (515)281-5637.

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. The Respondent is charged with conviction of a crime, in violation of Board rule 282 Iowa Admin. Code 25.3(1)(b)(2).

Count II

8. The Respondent is charged with alcohol abuse by being at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol, in violation of Board rule 282 Iowa Admin Code 25.3(2)(b).

C. JURISDICTION AND LEGAL AUTHORITY

9. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 Iowa Admin. Code chapter 11.

D. FACTUAL CIRCUMSTANCES

10. The Respondent holds a Standard License (FOLDER # 161775) with endorsements to teach 5-12 Physical Education, Biological Science and General Science, K-8 Physical Education, and to coach at the K-12 level. Respondent's license is current and will next expire on August 31, 2014.

11. The Respondent was employed as middle school computer applications teacher and high school girls' golf coach at Fairfield Community Schools. Respondent has since resigned.

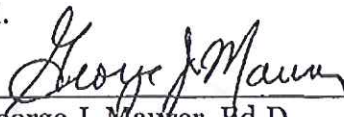
12. On June 20, 2011, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On August 5, 2011, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

13. On May 10, 2011, Respondent was charged with Operating a Motor Vehicle While Intoxicated and Child Endangerment while driving the Fairfield Girls' Golf team to a meet. Respondent pled guilty to the charges on August 2, 1011.

E. SETTLEMENT

14. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 Iowa Administrative Code 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 1st day of December, 2011.


George J. Maurer, Ed.D.

Executive Director
Iowa Board of Educational Examiners

Copies to:

Susan Steinbeck
801 South D Street
Fairfield, IA 52556
RESPONDENT

Julie J. Bussanmas
Assistant Attorney General
Hoover State Office Bldg., 2nd Floor
Des Moines, Iowa 50319
ATTORNEY FOR STATE